

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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IN RE AUTOMOTIVE PARTS	:	
ANTITRUST LITIGATION	:	Master File No. 12-md-02311
<hr/>	:	Honorable Marianne O. Battani
	:	
In Re: Wire Harness Cases	:	2:12-cv-00100-MOB-MKM
In Re: All Auto Parts Cases	:	2:12-md-02311-MOB-MKM
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THIS DOCUMENT RELATES TO:	:	
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All Wire Harness Cases	:	
All Auto Parts Cases	:	
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**DEALERSHIP AND END-PAYOR PLAINTIFFS' EXPEDITED MOTION FOR
EXTENSION OF TIME TO RESPOND TO DEFENDANTS MOTIONS TO MODIFY
THE MASTER'S RULINGS**

Due to the voluminous nature of Defendants' multiple motions to modify the Master's rulings, Dealership and End-Payor Plaintiffs ("Plaintiffs"), by undersigned counsel, hereby move for an extension of time to respond to 1) Certain Defendants' Objections and Motion to Modify Master Esshaki's June 18, 2015 Order and 2) Wire Harness Defendants' Objections and Motion to Modify Master Esshaki's June 18, 2015 (ECF Nos. 1008, 1009 and 1010 in Case No. 2:12-md-02311-MOB-MKM; ECF Nos. 306 and 307 in Case No. 2:12-cv-00100-MOB-MKM) to properly address Defendants' objections to nearly every ruling made by the Master in his June 18, 2015 Order. Plaintiffs respectfully seek a two-week extension of their time to file their opposition to Defendants' objections and motions to modify.

Plaintiffs rely on the following brief in support of their motion.

In accordance with E.D. Mich. LR 7.1(a), counsel for Plaintiffs requested Defendants' concurrence in the relief sought herein. Plaintiffs did not obtain Defendants' concurrence in their request.

Attached hereto as Exhibit 2 is a proposed order prepared for signature by this Court.

Dated: June 25, 2015

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE AUTOMOTIVE PARTS ANTITRUST LITIGATION

: Master File No. 12-md-02311
: Honorable Marianne O. Battani

In Re: Wire Harness Cases
In Re: All Auto Parts Cases

:
: 2:12-cv-00100-MOB-MKM
: 2:12-md-02311-MOB-MKM

THIS DOCUMENT RELATES TO:

All Wire Harness Cases
All Auto Parts Cases

**MEMORANDUM IN SUPPORT OF DEALERSHIP AND END-PAYOR PLAINTIFFS’
EXPEDITED MOTION FOR EXTENSION OF TIME TO RESPOND TO
DEFENDANTS’ OBJECTIONS AND MOTIONS TO MODIFY THE MASTER’S
RULINGS**

CONCISE STATEMENT OF ISSUES PRESENTED

Whether when Dealership and End-Payor Plaintiffs have only six business days to respond to Defendants' two separate briefs, of 25 pages each, with a new expert declaration, objecting to nearly all of the Master's rulings in his June 18 order, Dealership and End-Payor Plaintiffs may be granted a short extension to respond to said filings, given the crucial nature of the rulings at issue to the depositions in this litigation?

MOST APPROPRIATE AUTHORITIES

Fed. R. Civ. P. 6(b)(1)(A)

ARGUMENT

Late last Friday, Defendants filed 50 pages' worth of objections to the Master's June 18 Order on End-Payor and Dealership depositions, ECF No. 1005 in Case No. 2:12-md-02311-MOB-MKM, contesting nearly every ruling made in that order, along with a new expert declaration. Rather than coordinating and filing one set of objections, as Plaintiffs had expected, two sets of Defendants filed two separate briefs, at times addressing the same issue twice, in different briefs. Plaintiffs must now respond to more twice as many pages of briefing as expected.¹

In addition, Defendants filed two overlong briefs, and failed to adhere to either Judge Battani's practice guidelines, which require 20-page briefs in 12-point font or the Local Rules, which require 25-page briefs in 14-point font. Instead, Defendants filed 25-page briefs, in 12-point, resulting in 10 extra pages of briefing. This is not the first time that Defendants have violated this Court's page-length requirements.

Counsel for the Wire Harness Defendants who signed these motions, themselves acknowledged in their Motion to Strike Reynolds and Reynolds' Reply brief in Support of its Motion to Quash due to "excessive length" that Judge Battani's Practice Guidelines governed the

¹ Defendants have argued that the parties had previously agreed to the deadlines. However, Defendants had never before the day they made their filings revealed to Plaintiffs that they would be filing two briefs instead of one, at 25 pages each, in violation of Judge Battani's Practice Guidelines, and that they would be appealing the Master's rulings on the number of Dealership depositions and the length of End-Payor depositions. Before this, the only objection Defendants even mentioned potentially filing was to the 30(b)(1) outline requirements. When Plaintiffs initially sought to inquire about any potential objections Defendants stated that they did not know whether they would file objections. A week later, Defendants filed 50 pages' worth of objections with an expert declaration. Had Defendants been straightforward with Plaintiffs and disclosed their plans, Plaintiffs would have requested an appropriate amount of time to respond, that was commensurate with the length and substance of Defendants' filings.

length of briefs filed in 12-point. *See* (Doc # 290) in Case No. 2:12-cv-00102-MOB-MKM (Filed 03/30/15) and at 4 (attached as Ex. 1). They even attached those practice guidelines with the following portion highlighted “[d]ocuments should be prepared in 12 point type and double spaced. Motions and responses are allowed a maximum of *20 pages*.” *See* (Doc # 290-1) in Case No. 2:12-cv-00102-MOB-MKM (Filed 03/30/15), attached here as part of Ex. 1 (emphasis added). Objections to a magistrate’s order have previously been stricken in this District for a failure to comply with page length requirements. *See Chang Lim v. Terumo Corp.*, No. 11-12983, 2013 WL 6896444, at *1 (E.D. Mich. Dec. 31, 2013).

Defendants’ filings are essentially motions to compel complete with voluminous exhibits and extensive arguments reaching into everything from the requirements of the Federal Rules of Civil Procedure to the standards for class certification. Under the operative deadline, Plaintiffs have only six business days to respond to these 50 pages of objections and expert declaration. This is not sufficient time to file a comprehensive response.

The Master’s Order and Defendants’ objections deal with vital issues in this litigation including the number of Dealership depositions, the length of End-Payor depositions and the conduct of Indirect Purchaser depositions by Defense counsel. Dealership and End-Payor Plaintiffs therefore seek a full opportunity to address these issues. As such, Plaintiffs seek a two-week extension to respond to Defendants’ objections, such that their opposition would be due on July 13.

District courts have “wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed.” 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (4th ed. 2015). Deadlines associated with objections to a magistrate’s decisions may be extended by the Court pursuant to Fed. R. Civ. P.

6(b). *Dowell–El v. Howes*, No. 2:08–cv–11723, 2010 WL 2428656, at *1 (E.D.Mich. June 14, 2010) (granting requesting party an extension when request was made prior to expiration of the deadline and allowing party to make its filing 21 days from the date of the order granting his motion). Pursuant to Fed. R. Civ. P. 6(b), the Court may extend Plaintiffs’ time to reply to Defendants’ objections “for good cause.” Here, Plaintiffs have demonstrated good cause to be granted a full opportunity to respond to Defendants’ 50 pages of objections, contained in two separate briefs, which seek to, among other things, dramatically increase the amount of Indirect Purchaser deposition time granted to Defendants by the Master. Given the serious issues involved in these filings, and the volume of the filings, six business days is insufficient time for a response.

The short amount of time by which Plaintiffs seek to extend their time to respond will result in no prejudice to Defendants. Indeed, if this extension is granted, briefing will still be finished next month, as it would have been without the extension.

Given the short extension Plaintiffs seek and that without this extension Plaintiffs’ response is due this Monday, Plaintiffs respectfully request expedited consideration of their extension request.

Dated: June 25, 2015

Respectfully submitted,

/s/ Gerard V. Mantese

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CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2015 I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send electronic notices of same to all counsel of record.

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